IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.539 OF 2006
WITH
CIVIL APPLICATION NO.694 OF 2006

Vilas Eknath Nangude and others ..Appellants

V/s.

Janardan Sitaram Dhore and others ..Respondents

Mr.Rajiv Patel for Harshad Bhadbhade, advocate for the appellants
Mr.Rahul S.Kate,advocate for respondent Nos.1 to 22
Mr.A.R.Patil, AGP for respondent No.23

Coram : D.G.Karnik, J

Date : 9th November, 2006

P.C.

1. Heard learned counsel for the parties. This appeal is directed against the order dated 27th April, 2006 passed by Civil Judge, Senior Division, Pune rejecting application of the appellants for injunction.

2. The appellants and respondent Nos.1 to 21 are neighbouring owners. The respondent Nos.1 to 21 entered into a development agreement with respondent No.22 for development of their land and

accordingly, the development has been started Apprehending that respondent Nos.1 to 22 had committed encroachment on their property while carrying out the development of their property the appellants filed a suit, bearing Special Civil Suit No.415 of 2006, for an injunction restraining respondent Nos.1 to 22 from developing the property. In the suit the appellants applied for an interim injunction restraining development by the respondent Nos.1 to 22 of their property. That application was rejected. The present appeal is directed against that order.

3. Before me grievance was made by the appellants that they had applied for the measurement of the property to the City Survey Officer but the City Survey Officer was not carrying out measurement and therefore, it was not possible for them to prove before trial Court that the respondent Nos.1 to 22 were committing encroachment on their property. In view of this, by an order dated 13th September, 2006 this Court directed City Survey Officer to carry out the measurement and submit his report. Accordingly,

report has been submitted along with map. From the said map the learned counsel for the appellants is unable to show that the respondents had committed encroachment on their property. In the circumstances, apprehension of the appellants that respondents have committed encroachment is not on record. Hence, the appellants are not entitled for the relief of injunction restraining respondents from carrying out construction in their property.

4. There is no merit in the appeal which is hereby dismissed summarily.

(D.G.Karnik, J.)